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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,152	03/16/2004	Kenjiro Mihara	36856.1232	2190
35510	7590	07/14/2005	EXAMINER	
KEATING & BENNETT, LLP			EASTHOM, KARL D	
10400 EATON PLACE			ART UNIT	
SUITE 312			PAPER NUMBER	
FAIRFAX, VA 22030			2832	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,152

Applicant(s)

MIHARA ET AL.

Examiner

Karl D. Easthom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 10-16 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-16 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 21-23 are rejected under 35 U.S.C. 102(b) as being unpatentable over Mihara et al. (JP 6-208903). Mihara discloses the claimed invention at Fig. 1-4 with thermistor layers 2, first and second external electrodes 5, first and second internal electrodes 3 and the non-heating portions the opening portions 6 approximately in the center in the lamination direction. The term "approximate" is broad so that the claim is met, where the cuts 6 or 8 are almost in the center of the device in the lamination, width, and longitudinal. Claims 22-23 are met since there are cuts in all the electrodes.

Claims 16, and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Iwao et al. (6593844). Iwao discloses the claimed invention at Fig. 18b with

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thermistor layers 51, first and second external electrodes, first (52a-56a, 55b-57b, 52b-56b), and second (55a-57a, 55c-57c), and the gaps are located approximately in the center in the lamination, width and longitudinal directions, where the term is one of degree. The distance between the cuts from 52a-56a, from 55b-57b, from 52b-56b, from 55a-57a, and from 55c-57c are the gaps between the inner electrode and sub electrodes just noted (55a(inner)- 57a (sub), noted at col. 12, lines 40-45, which is longer than 0.3mm as noted, meeting the claims. For claims 17-18 and 22-23, all the electrodes have those distances.

Claims 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Iwao et al. (6, 556,123). Iwao discloses the claimed invention at Fig. 16s -16b with thermistor layers 51, first and second external electrodes 53a, 53b first and second internal electrodes 54a-d and the non-heating portion either the gaps 57a located approximately in the center in the lamination width and longitudinal directions, where the term is one of degree. Cols. 11-12 discloses that there can be 4-6 inner main electrodes thus meeting the claim as a plurality of first and second electrodes.

2. Claims 1 and 10-15 are allowed.

3. Applicant's arguments filed 5/10/2005 have been fully considered but they are not persuasive as to the maintained rejections. Applicant argues that Mihara and Iwao are not approximately in the center. This is not correct. The term is one of degree without any specification so that it is interpreted broadly.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D. Easthom whose telephone number is (571) 272-1989. The examiner can normally be reached on M-Th, 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Karl D Easthom



KARL D. EASTHOM
PRIMARY EXAMINER